



U.S. Army Corps
of Engineers
Buffalo District
CELRB-TD-R

Public Notice

Applicant:
Village of Jefferson

Published: August 6, 2012
Expires: September 6, 2012

Application No: **2011-01442**
Section: **OH**

All written comments should reference the above Application No. and be addressed to:
Buffalo District U.S. Army Corps of Engineers
Regulatory Branch (Attn: **Michael W. Smith**)
1776 Niagara Street
Buffalo, New York 14207-3199

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

**Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

The Village of Jefferson, 27 East Jefferson Street, Jefferson, Ashtabula County, Ohio 44047, has submitted a Department of the Army Section 404 application to place fill in Cemetery Creek by replacing two culvert crossings of the stream at Pine Street and Market Street with one culvert crossing as shown on Sheets 1-4 of 7. To accomplish the project, 300 feet of Cemetery Creek consisting of 225 feet of open channel, one 39 foot long culverted section under Pine Street, and one 36 foot long culverted section under Market Street, would be filled and replaced with 290 feet of open channel and one 128 foot long by eight foot tall by 14 foot wide, three-sided box culvert. In addition, the project would involve piping a 200 foot long ephemeral channel.

As mitigation for the stream impacts, the applicant proposes to plant the 290 feet of relocated stream with herbaceous wetland vegetation on the stream bed shelf and to also plant trees and shrubs on approximately 300 feet of the existing and relocated Cemetery Run located east of Market Street as shown on attached Sheets 6 and 7 of 7. The total planting area would consist of 0.68 acres.

The purpose of the project is to eliminate erosion issues between the two existing culverts, address road safety issues, and replace the two failing culverts.

Location and details of the above described work are shown on the attached maps and drawings.

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Michael W. Smith, who can be contacted at the above address, by calling (716) 879-4262, or by e-mail at: Michael.W.Smith@usace.army.mil. A lack of

response will be interpreted as meaning that there is no objection to the work as proposed.

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency.

Based on preliminary findings, there do not appear to be any properties listed in, or eligible for listing in the National Register of Historic Places within the permit area as shown on Sheet 5 of 7. Therefore, the Corps has determined that the project has no potential to cause effect to any historic or archaeological properties. This notice constitutes initiation of consultation with the Ohio Historic Preservation Office (SHPO) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the SHPO. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the SHPO for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to the Indiana bat (*Myotis sodalis*), Kirtland's warbler (*Dendroica kirtlandii*), piping plover (*Charadrius melodus*), clubshell (*Pleurobema clava*), and eastern massasauga (*Sistrurus catenatus*), and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable

impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Diane C. Kozlowski
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for **30 days** from the date of issuance.